

AMENDED IN SENATE APRIL 14, 2009

**SENATE BILL**

**No. 385**

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**Introduced by Senator Wright**

February 26, 2009

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An act to amend Section ~~4000.1 of the Vehicle~~ *44011 of the Health and Safety Code*, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as amended, Wright. Historic motor vehicles: preservation.

(1) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances.

~~Existing law also requires the Department of Motor Vehicles to require any motor vehicle subject to the above requirements to demonstrate compliance with the smog check requirements by submission of a valid smog check certificate of compliance or noncompliance, as appropriate, upon initial registration, and upon the transfer of ownership and registration of the motor vehicle, with certain exceptions, including, an exemption from these requirements for any motor vehicle manufactured prior to the 1976 model year.~~

This bill would also exempt a motor vehicle that has historic vehicle license plates if the registered owner signs a statement under penalty of perjury that the motor vehicle will be used for specified purposes and if the registered owner owns 2 or more currently registered motor vehicles that are not registered as historic motor vehicles.

(2) To the extent that the bill would require a statement signed under penalty of perjury, the bill would create a new crime and, thus, impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 44011 of the Health and Safety Code, as  
2     added by Section 3 of Chapter 739 of the Statutes of 2007, is  
3     amended to read:

4     44011. (a) ~~All~~A motor-~~vehicles~~ vehicle powered by internal  
5     combustion engines ~~that are~~ is registered within an area designated  
6     for program coverage shall be required biennially to obtain a  
7     certificate of compliance or noncompliance, except for the  
8     following:

9     (1) ~~All motorcycles~~A motorcycle, until the department, pursuant  
10    to Section 44012, implements test procedures applicable to  
11    motorcycles.

12    (2) ~~All~~A motor-~~vehicles~~ vehicle that ~~have~~ has been issued a  
13    certificate of compliance or noncompliance or a repair cost waiver  
14    upon a change of ownership or initial registration in this state  
15    during the preceding six months.

16    (3) ~~All~~A motor-~~vehicles~~ vehicle manufactured prior to the 1976  
17    model-year.

18    (4) (A) Except as provided in subparagraph (B), all motor  
19    vehicles four or less model-years old.

20    (B) Beginning January 1, 2005, ~~all a~~ motor-~~vehicles~~ vehicle six  
21    or less model-years old, unless the state board finds that providing  
22    an exception for these vehicles will prohibit the state from meeting  
23    the requirements of Section 176(c) of the federal Clean Air Act  
24    (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with  
25    respect to the state implementation plan required by the federal  
26    Clean Air Act.

1 (C) ~~All-A motor-vehicles~~ *vehicle* excepted by this paragraph  
2 shall be subject to testing and to certification requirements as  
3 determined by the department, if any of the following apply:

4 (i) The department determines through remote sensing activities  
5 or other means that there is a substantial probability that the vehicle  
6 has a tampered emission control system or would fail for other  
7 cause a smog check test as specified in Section 44012.

8 (ii) The vehicle was previously registered outside this state and  
9 is undergoing initial registration in this state.

10 (iii) The vehicle is being registered as a specially constructed  
11 vehicle.

12 (iv) The vehicle has been selected for testing pursuant to Section  
13 44014.7 or any other provision of this chapter authorizing  
14 out-of-cycle testing.

15 (D) This paragraph does not apply to diesel-powered vehicles.

16 (5) In addition to the vehicles exempted pursuant to paragraph  
17 (4), ~~any~~ *a* motor vehicle or class of motor vehicles exempted  
18 pursuant to subdivision (b) of Section 44024.5. It is the intent of  
19 the Legislature that the department, pursuant to the authority  
20 granted by this paragraph, exempt at least 15 percent of the lowest  
21 emitting motor vehicles from the biennial smog check inspection.

22 (6) ~~All-A motor-vehicles~~ *vehicle* that the department determines  
23 would present prohibitive inspection or repair problems.

24 (7) ~~Any-A~~ vehicle registered to the owner of a fleet licensed  
25 pursuant to Section 44020 if the vehicle is garaged exclusively  
26 outside the area included in program coverage, and is not primarily  
27 operated inside the area included in program coverage.

28 (8) (A) ~~All-A diesel-powered-vehicles~~ *vehicle* manufactured  
29 prior to the 1998 model-year.

30 (B) ~~All-A diesel-powered-vehicles~~ *vehicle* that ~~have~~ *has* a gross  
31 vehicle weight rating of 8,501 to 10,000 pounds, inclusive, until  
32 the department, in consultation with the state board, pursuant to  
33 Section 44012, implements test procedures applicable to these  
34 vehicles.

35 (C) ~~All-A diesel-powered-vehicles~~ *vehicle* that ~~have~~ *has* a gross  
36 vehicle weight rating from 10,001 pounds to 13,999 pounds,  
37 inclusive, until the state board and the Department of Motor  
38 Vehicles determine the best method for identifying these vehicles,  
39 and until the department, in consultation with the state board,

1 pursuant to Section 44012, implements test procedures applicable  
2 to these vehicles.

3 ~~(D) All A diesel-powered vehicles~~ *vehicle that have has a gross*  
4 *vehicle weight rating of 14,000 pounds or greater.*

5 *(9) A motor vehicle that meets all of the following conditions:*

6 *(A) The motor vehicle has historic vehicle license plates issued*  
7 *pursuant to Section 5004 of the Vehicle Code.*

8 *(B) The registered owner of the motor vehicle signs a statement*  
9 *under penalty of perjury on a form provided by the department*  
10 *that the motor vehicle will be used principally for the purposes*  
11 *defined in subdivision (f) of Section 5004 of the Vehicle Code.*

12 *(C) The registered owner of the motor vehicle owns two or more*  
13 *currently registered motor vehicles that are not registered as*  
14 *historic motor vehicles pursuant to Section 5004 of the Vehicle*  
15 *Code.*

16 *(D) The motor vehicle has not been driven more than an average*  
17 *of 150 miles per month during the previous two-year period, as*  
18 *verified by a licensed smog check station. The mileage cap shall*  
19 *not include miles driven to and from events sponsored by a*  
20 *charitable organization qualified pursuant to Section 501(c)(3) of*  
21 *the Internal Revenue Code, documented by a receipt issued by the*  
22 *organization in accordance with Internal Revenue Service*  
23 *regulations for charitable contributions in the form of automobile*  
24 *usage for charitable purposes. A licensed smog check station may*  
25 *charge a reasonable fee for checking the mileage and the*  
26 *charitable contribution form.*

27 ~~(b) Vehicles~~ *A vehicle designated for program coverage in*  
28 *enhanced areas shall be required to obtain inspections from*  
29 *appropriate smog check stations operating in enhanced areas.*

30 *(c) For purposes of subdivision (a), a collector motor vehicle,*  
31 *as defined in Section 259 of the Vehicle Code, is exempt from*  
32 *those portions of the test required by subdivision (f) of Section*  
33 *44012 if the collector motor vehicle meets all of the following*  
34 *criteria:*

35 *(1) Submission of proof that the motor vehicle is insured as a*  
36 *collector motor vehicle, as shall be required by regulation of the*  
37 *bureau.*

38 *(2) The motor vehicle is at least 35 model-years old.*

39 *(3) The motor vehicle complies with the exhaust emissions*  
40 *standards for that motor vehicle's class and model-year as*

1 prescribed by the department, and the motor vehicle passes a  
2 functional inspection of the fuel cap and a visual inspection for  
3 liquid fuel leaks.

4 (d) This section shall become operative on January 1, 2010.

5 SECTION 1. ~~Section 4000.1 of the Vehicle Code is amended~~  
6 ~~to read:~~

7 ~~4000.1. (a) Except as otherwise provided in subdivision (b),~~  
8 ~~(c), or (d) of this section, or subdivision (b) of Section 43654 of~~  
9 ~~the Health and Safety Code, the department shall require upon~~  
10 ~~initial registration, and upon transfer of ownership and registration,~~  
11 ~~of a motor vehicle subject to Part 5 (commencing with Section~~  
12 ~~43000) of Division 26 of the Health and Safety Code, a valid~~  
13 ~~certificate of compliance or a certificate of noncompliance, as~~  
14 ~~appropriate, issued in accordance with Section 44015 of the Health~~  
15 ~~and Safety Code.~~

16 ~~(b) With respect to new motor vehicles certified pursuant to~~  
17 ~~Chapter 2 (commencing with Section 43100) of Part 5 of Division~~  
18 ~~26 of the Health and Safety Code, the department shall accept a~~  
19 ~~statement completed pursuant to subdivision (b) of Section 24007~~  
20 ~~in lieu of the certificate of compliance.~~

21 ~~(c) For purposes of determining the validity of a certificate of~~  
22 ~~compliance or noncompliance submitted in compliance with the~~  
23 ~~requirements of this section, the definitions of new and used motor~~  
24 ~~vehicle contained in Chapter 2 (commencing with Section 39010)~~  
25 ~~of Part 1 of Division 26 of the Health and Safety Code shall control.~~

26 ~~(d) Subdivision (a) does not apply to a transfer of ownership~~  
27 ~~and registration under any of the following circumstances:~~

28 ~~(1) The initial application for transfer is submitted within the~~  
29 ~~90-day validity period of a smog certificate as specified in Section~~  
30 ~~44015 of the Health and Safety Code.~~

31 ~~(2) The transferor is the parent, grandparent, sibling, child,~~  
32 ~~grandchild, or spouse of the transferee.~~

33 ~~(3) A motor vehicle registered to a sole proprietorship is~~  
34 ~~transferred to the proprietor as owner.~~

35 ~~(4) The transfer is between companies the principal business of~~  
36 ~~which is leasing motor vehicles, if there is no change in the lessee~~  
37 ~~or operator of the motor vehicle or between the lessor and the~~  
38 ~~person who has been, for at least one year, the lessee's operator~~  
39 ~~of the motor vehicle.~~

1     ~~(5) The transfer is between the lessor and lessee of the motor~~  
2     ~~vehicle, if there is no change in the lessee or operator of the motor~~  
3     ~~vehicle.~~

4     ~~(6) The motor vehicle was manufactured prior to the 1976~~  
5     ~~model-year.~~

6     ~~(7) Beginning January 1, 2005, the transfer is for a motor vehicle~~  
7     ~~that is four or less model-years old. The department shall impose~~  
8     ~~a fee of eight dollars (\$8) on the transferee of a motor vehicle that~~  
9     ~~is four or less model-years old. Revenues generated from the~~  
10    ~~imposition of that fee shall be deposited into the Vehicle Inspection~~  
11    ~~and Repair Fund.~~

12    ~~(e) The State Air Resources Board, under Part 5 (commencing~~  
13    ~~with Section 43000) of Division 26 of the Health and Safety Code,~~  
14    ~~may exempt designated classifications of motor vehicles from~~  
15    ~~subdivision (a) as it deems necessary, and shall notify the~~  
16    ~~department of that action.~~

17    ~~(f) Subdivision (a) does not apply to a motor vehicle when an~~  
18    ~~additional individual is added as a registered owner of the motor~~  
19    ~~vehicle.~~

20    ~~(g) For purposes of subdivision (a), any collector motor vehicle,~~  
21    ~~as defined in Section 259, is exempt from those portions of the~~  
22    ~~test required by subdivision (f) of Section 44012 of the Health and~~  
23    ~~Safety Code, if the collector motor vehicle meets all of the~~  
24    ~~following criteria:~~

25    ~~(1) Submission of proof that the motor vehicle is insured as a~~  
26    ~~collector motor vehicle, as shall be required by regulation of the~~  
27    ~~bureau.~~

28    ~~(2) The motor vehicle is at least 35 model-years old.~~

29    ~~(3) The motor vehicle complies with the exhaust emissions~~  
30    ~~standards for that motor vehicle's class and model year as~~  
31    ~~prescribed by the department, and the motor vehicle passes a~~  
32    ~~functional inspection of the fuel cap and a visual inspection for~~  
33    ~~liquid fuel leaks.~~

34    ~~(h) Subdivision (a) does not apply to a transfer of ownership~~  
35    ~~and registration if all of the following conditions are met:~~

36    ~~(1) The motor vehicle has historic vehicle license plates pursuant~~  
37    ~~to Section 5004.~~

38    ~~(2) The registered owner of the motor vehicle signs a statement~~  
39    ~~under penalty of perjury on a form provided by the department~~

1 that the motor vehicle will be used principally for the purposes  
2 defined in subdivision (f) of Section 5004.

3 ~~(3) The registered owner of the motor vehicle owns two or more~~  
4 ~~currently registered motor vehicles that are not registered as historic~~  
5 ~~motor vehicles pursuant to Section 5004.~~

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.